

AFFORDABLE HOUSING IN WASHINGTON, DC: THE IMPACT OF
SHORT-TERM RENTALS AND POSSIBLE SOLUTIONS

by
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requirements for the degree of Master of Arts in Public Management

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Abstract:

On January 21, 2017, Councilmember Kenyan McDuffie, Ward 5, introduced B22-0092, a bill to impose new regulations on short-terming housing rentals—i.e. Airbnb and others—in order to protect affordable housing supply in the District of Columbia. The bill received a first hearing at City Council on April 26, 2017 and has received widespread attention and response from affordable housing activists, the hotel industry, and those who support the availability of short-term rentals. Washington, DC joins New York City and San Francisco, two other cities with considerable housing costs and affordable housing shortages, in a debate that is only likely to expand to other jurisdictions in the coming years.

This capstone details the affordable housing shortage in Washington, DC and examines the impact of the rise in popularity of short-term rentals on the affordable housing supply. Using case studies from legislation already in cities like New York and San Francisco, this capstone analyzes the Short-term Rental Regulation and Affordable Housing Protection Act of 2017 to determine whether it is likely to be successful in mitigating the impact short-term rentals have on affordable housing supply. The analysis suggests this proposal is unlikely to achieve its stated goal and it is recommended that councilmembers vote against the proposal. Paul Weinstein, Director of the Public Management Program, was the advisor for this capstone project.

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MEMORANDUM

TO: Councilmember Brianne Nadeau, Ward 1
FR: Bailey Childers
RE: Analysis of B22-0092: Short-term Rental Regulation and Affordable Housing Protection Act of 2017
DT: September 4, 2017

Action Forcing Event

On January 21, 2017, Councilmember Kenyan McDuffie, Ward 5, introduced B22-0092, a bill to impose new regulations on short-terming housing rentals—i.e. Airbnb and others—in order to protect affordable housing supply in the District of Columbia.¹ The bill received a first hearing at City Council on April 26, 2017 and has received widespread attention and response from affordable housing activists, the hotel industry, and those who support the availability of short-term rentals.² Washington, DC joins New York City and San Francisco, two other cities with considerable housing costs and affordable housing shortages, in a debate that is only likely to expand to other jurisdictions in the coming years.

Statement of the Problem

Affordable housing is tough to come by in DC. Too many low-income households in DC are spending too much of their monthly budget on housing. When this happens, other needs may go unmet, families might lose access to utilities or be evicted,

¹ McDuffie, Kenyan. “Short-term Rental Regulation and Affordable Housing Protection Act of 2017.” January 31, 2017. Accessed September 4, 2017. <http://lims.dccouncil.us/Download/37319/B22-0092-Introduction.pdf>.

² Davis, Aaron. 2017. “D.C. lawmakers get an earful on proposal to strictly regulate Airbnb.” *Washington Post*, April 26, 2017. https://www.washingtonpost.com/local/dc-politics/dc-lawmakers-get-an-earful-on-proposal-to-strictly-regulate-airbnb/2017/04/26/594ef9c2-2a92-11e7-a616-d7c8a68c1a66_story.html.

and a variety of other stresses will weigh on parents and their children. Overcrowding, with more than one person per room living in the unit, can also occur when families cannot afford housing—this problem is a major challenge in the Columbia Heights and Mt. Pleasant neighborhoods in Ward 1, according to the Urban Institute.³ Worst case scenario, a lack of affordable housing can lead to homelessness for adults and children.

A September 2017 report from the apartment rental search company Zumper found that DC was the fourth most expensive rental market in the country with a median one-bedroom rental rate of \$2,280 per month, up 3.6 percent from the previous year.⁴ Even with the highest median wages in the country, finding affordable housing can be tough for middle-income Washingtonians, but is especially taxing for low-income families. The median income in DC is \$75,628.⁵ The median income for the lowest-income residents of DC, a group the DC Fiscal Policy Institute (DC FPI) describes as “those with incomes below 30 percent of the area median for a family of four” is \$32,000.⁶ Particularly for this group of individuals, finding housing within their means is a challenge.

When an individual or family is spending too much of their monthly income on housing, they are considered cost-burdened or rent-burdened. The U.S. Department of Housing and Urban Development (HUD) defines “rent-burdened” families as those

³ Tatian, Peter, et. al. “Affordable Housing Needs Assessment for the District of Columbia: Phase II.” Urban Institute, May 2015, pg. 32. <https://www.urban.org/sites/default/files/alfresco/publication-pdfs/2000214-Affordable-Housing-Needs-Assessment-for-the-District-of-Columbia.pdf>.

⁴ Chen, Crystal. “Zumper National Rent Report: September 2017.” *Zumper*, August 30, 2017. <https://www.zumper.com/blog/rental-price-data>.

⁵ Zou, Manyun. “The DC Area Has the Highest Median Income in the US Again.” *Washingtonian*, September 21, 2016. <https://www.washingtonian.com/2016/09/21/the-dc-area-has-the-highest-median-income-in-the-us-again/>.

⁶ Zippel, Claire. “A Broken Foundation: Affordable Housing Crisis Threatens DC’s Lowest-Income Residents.” DC Fiscal Policy Institute, December 8, 2016, pg. 1. <http://www.dcfpi.org/wp-content/uploads/2016/12/DCFPI-Broken-Foundation-Housing-Report-12-8-16.pdf>.

spending more than 30 percent of income on housing. HUD explains that a family who spends “more than 30 percent of their income for housing are considered cost burdened and may have difficulty affording necessities such as food, clothing, transportation and medical care.”⁷ In DC, the number of individuals falling into this HUD category is staggering. The *Washington Post* reports that “nearly 40 percent of households in the nation’s capital spend more than one-third of their incomes on housing.”⁸ Even more troubling, DC FPI estimates that 26,000 low-income households are spending more than half of their income on rent.⁹

Families in DC are eligible for public housing supports, but those services are over-taxed and inadequate to serve the population. The *Washington Post* reports that “more than 47,000 families are on the D.C. Housing Authority’s waiting list for public housing, and more than 7,500 people are homeless.”¹⁰ The tragic consequences of over-taxed homeless shelters were brought to light by the 2014 disappearance of eight-year old Relisha Rudd. Rudd was taken from the D.C. General homeless shelter, heavily criticized for its lack of security and uninhabitable living conditions for the families who

⁷ “Affordable Housing.” U.S. Department of Housing and Urban Development. Accessed September 10, 2017. https://portal.hud.gov/hudportal/HUD?src=/program_offices/comm_planning/affordablehousing/.

⁸ Duggan, Paul. “D.C.’s affordable housing program has been mismanaged, according to city auditors’ report.” *Washington Post*, March 16, 2017. https://www.washingtonpost.com/local/dcs-affordable-housing-program-has-been-mismanaged-according-to-city-auditors-report/2017/03/16/42038e86-09b3-11e7-93dc-00f9bdd74ed1_story.html?utm_term=.3875fa95d6c5.

⁹ Zippel, Claire. “A Broken Foundation: Affordable Housing Crisis Threatens DC’s Lowest-Income Residents.” DC Fiscal Policy Institute, December 8, 2016, pg. 1. <http://www.dcfpi.org/wp-content/uploads/2016/12/DCFPI-Broken-Foundation-Housing-Report-12-8-16.pdf>.

¹⁰ Duggan, Paul. “D.C.’s affordable housing program has been mismanaged, according to city auditors’ report.” *Washington Post*, March 16, 2017. https://www.washingtonpost.com/local/dcs-affordable-housing-program-has-been-mismanaged-according-to-city-auditors-report/2017/03/16/42038e86-09b3-11e7-93dc-00f9bdd74ed1_story.html?utm_term=.3875fa95d6c5.

lived there. Since, the city has embarked on a plan to close D.C. General by 2020 and open neighborhood homeless shelters in all eight wards across Washington, DC.¹¹

DC FPI and the Urban Institute both note that some of DC's housing programs serve low income residents, but not those who are on the lowest end of the income scale. For these families, finding affordable housing is the most challenging. Unfortunately, the Urban Institute estimates that by 2020, DC will have "a net loss of housing units affordable to extremely low and very low income households...primarily because of a loss of market-rate affordable housing for these households."¹² Reversing course on that trend will require focus from the city government and multi-faceted policy solutions to address affordable housing for all residents of DC.

An additional layer to the affordable housing struggles of cities like DC is the rise in popularity of home-sharing services like AirBNB, VRBO, and others. Airbnb launched in DC in 2008 and between the years of 2006 and 2014 DC lost 1,000 units of affordable housing stock.¹³ In 2004, half of low-income renters spent the majority of their income on housing and that number is now up to 62 percent.¹⁴ The decline of affordable housing stock in DC since 2002 can be seen in Figure 1.

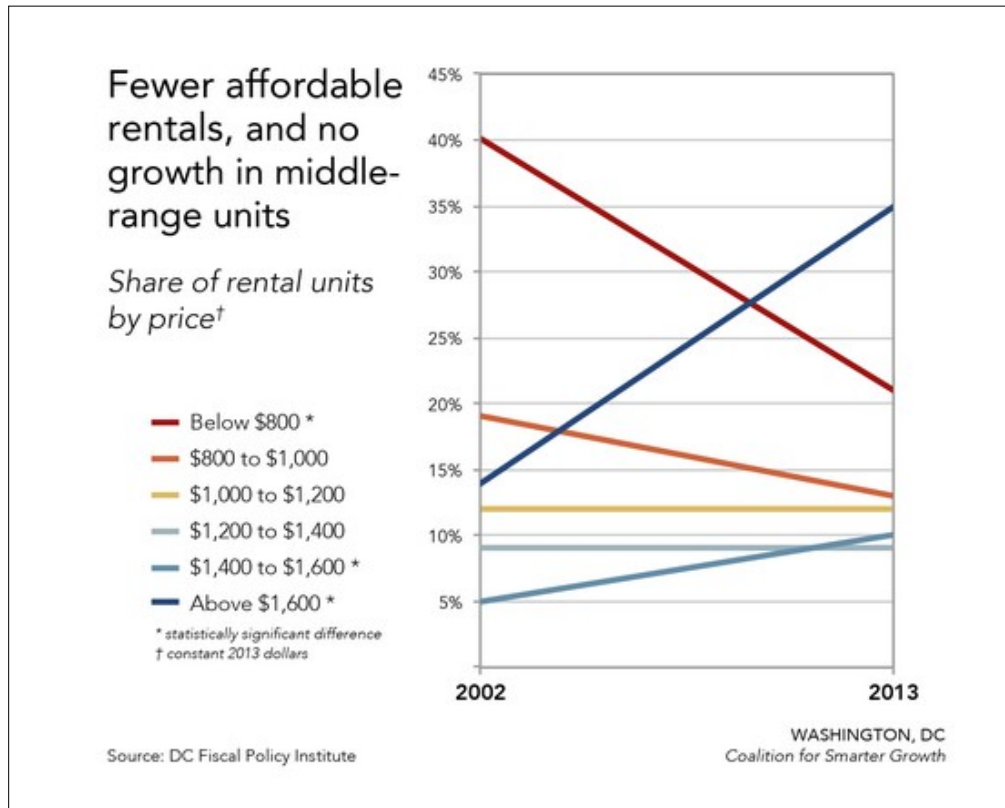
¹¹ Davis, Aaron. "Plan to close D.C. General, city's blighted family homeless shelter, clears hurdle." *Washington Post*, April 6, 2017. https://www.washingtonpost.com/local/dc-politics/plan-to-close-dc-general-citys-blighted-family-homeless-shelter-clears-hurdle/2017/04/06/4e14bb8e-1ae1-11e7-9887-1a5314b56a08_story.html?utm_term=.9c7797544512.

¹² Tatian, Peter, et. al. "Affordable Housing Needs Assessment for the District of Columbia: Phase II." Urban Institute, May 2015, pg. 4. <https://www.urban.org/sites/default/files/alfresco/publication-pdfs/2000214-Affordable-Housing-Needs-Assessment-for-the-District-of-Columbia.pdf>.

¹³ Government of the District of Columbia. "FY2015 Housing Production Trust Fund Annual Report." P. 2. <https://dhcd.dc.gov/sites/default/files/dc/sites/dhcd/publication/attachments/2015%20HPTF%20Affordable%20Housing%20Annual%20Report.pdf>.

¹⁴ Zippel, Claire. "A Broken Foundation: Affordable Housing Crisis Threatens DC's Lowest-Income Residents." December 8, 2016. <https://www.dcfpi.org/wp-content/uploads/2016/12/DCFPI-Broken-Foundation-Housing-Report-12-8-16.pdf>.

Figure 5: Trends in Affordable Rentals¹⁵



While not all loss of housing stock may be attributed to rentals on Airbnb, studies in DC and New York have begun to uncover the relationship of growth in short-term rentals to a decrease in affordable housing stock.

In a March 2017 report examining the impact of Airbnb on the DC market, DC Working Families found that in just one year, Airbnb listings alone had grown by almost 38 percent from 2015 to 2016 (compared to a 1.1 percent growth in housing stock in DC the year before).¹⁶ DC Working Families found that Wards 1, 2, and 6 have the most highly concentrated Airbnb listings, and in neighborhoods like this, Airbnb listings

¹⁵ Zippel, Claire. “DC’s housing affordability crisis, in 7 charts.” *Greater Greater Washington*. April 30, 2015.

<https://gwwash.org/view/37967/dcs-housing-affordability-crisis-in-7-charts>.

¹⁶ D.C. Working Families. “Selling the District Short: Short-term rentals: a new challenge to housing affordability in the District of Columbia Airbnb’s Impact in Washington D.C.” March 2017.

http://dcsharebetter.org/wp-content/uploads/2017/03/D.C.-Housing-Report_Web.pdf.

account for between 10 to 15 percent of the vacant housing stock.¹⁷ Even if not all of the units would be on the rental market otherwise, loss of any units in a city that already has a large waiting list for affordable housing and has a homeless population that exceeds shelter capacity is a problem. Further, the DC Working Families study was limited to Airbnb listings, but several other short-term rental companies like VRBO, Homeaway, and others operate in DC, likely meaning the number of units being taken off the market to be used for short term rentals is higher than the report suggests.

Two types of listings on short-term rental sites are most likely to threaten the affordable housing stock. The first is a “commercial rental,” defined as multiple listings by the same host. DC Working Families found that 37 percent of DC Airbnb listings are commercial.¹⁸ Their report explains: “Commercially-operated listings are likely to represent residential housing units that are no longer available to D.C. families because they have been converted into illegal hotel rooms.”¹⁹ Since the same person is listing multiple units, it is unlikely that the host is using all the units as a primary residence. Instead of placing the non-primary residence/s on the apartment rental market, a commercial lister has likely decided that they can earn more money by listing rooms on short-term rental platforms. DC Working Families estimates that at 100% occupancy, Airbnb rentals could provide an average profit margin of 151% above average rental price.²⁰ Thus, there is a strong incentive for some to opt for short term offerings over putting their units on the apartment rental market. In 2016, an organizer for the Latino

¹⁷ D.C. Working Families. “Selling the District Short: Short-term rentals: a new challenge to housing affordability in the District of Columbia Airbnb’s Impact in Washington D.C.” March 2017. http://dcsharebetter.org/wp-content/uploads/2017/03/D.C.-Housing-Report_Web.pdf.

¹⁸ Ibid, pg. 5.

¹⁹ Ibid, pg. 11.

²⁰ Ibid, pg. 16.

Economic Development Center discovered that the owner of a 21-unit building in Columbia Heights had been posting available units on Airbnb rather than putting the rent-controlled units back on the market.²¹ Organizers paid for a three-night stay what they estimated was close a month's rent for others in the neighborhood.²² The sting operation uncovered 20 units that had been lost to the apartment rental market in favor of short-term rentals. This case is in violation of current DC law.

In addition to commercial listers, another listing classification that may pose a threat to affordable housing is an “entire home” listing. Across the city, 67 percent of Airbnb listings are “entire home/apartment listings” meaning “the operator is not present to host or supervise guests.”²³ Platforms like VRBO and Homeaway exclusively list full home rentals while Airbnb offers hosts the option to offer a room or couch in the house for rent, in theory meaning the host is also living in the home with the renter. With a host living in the rental, it is unlikely that the unit would otherwise be available on the long-term rental market. However, in a full-home rental, the host may no longer be living in the unit and the unit should otherwise be available for a renter. In New York, examined below, full-home rentals are illegal for less than 30 days, but a shared rental where the host is present is legal.

²¹ Giambone, Andrew. “‘Sting Operation’ Reveals Questionable Airbnb Use at Building in Columbia Heights.” *Washington City Paper*, December 15, 2016.

<http://www.washingtoncitypaper.com/news/housing-complex/blog/20846838/sting-operation-reveals-questionable-airbnb-use-at-building-in-columbia-heights>.

²² Ibid.

²³ D.C. Working Families. “Selling the District Short: Short-term rentals: a new challenge to housing affordability in the District of Columbia Airbnb’s Impact in Washington D.C.” March 2017, pg. 5. http://dcsharebetter.org/wp-content/uploads/2017/03/D.C.-Housing-Report_Web.pdf.

Case Study: New York City

In 2014, the New York State Attorney General's office conducted a study to quantify the impact of short-term housing rentals, like Airbnb, on affordable housing in New York City. The study reviewed data from short-term rental stays between the period of 2010 and 2014. Like in DC, the study found that a significant number of listings were commercial. In New York City's case, 94 percent of hosts offered up to two unique rentals at a time, but the remaining four percent had hundreds of listings that accounted for 37 percent of the overall revenue in the City.²⁴ The report estimates that thousands of residential units were taken off the New York City market to be used for revenue generation through Airbnb. 2,000 rental units were booked on Airbnb for more than half the year and 4,600 rental units were booked on Airbnb for more than three months.²⁵

Some laws in New York had already been in place and strengthened prior to the 2014 report. New York City hotels and rental properties are governed by the New York States Multiple Dwelling Law (MDL). In order to close a loophole in the law that some Airbnb hosts were exploiting, the MDL was amended in 2010 to prohibit rentals of thirty days or less in "Class A" multiple dwellings unless a "permanent resident" was present.²⁶ Among the bill sponsors' rationale for the amended language was the need to protect affordable housing in New York City, prevent unfair competition with hotels, and provide for the safety of residents in Class A multiple dwellings.²⁷ With the updated law,

²⁴ Office of New York State Attorney General. "Airbnb in the City." October 2014. <https://ag.ny.gov/pdfs/AIRBNB%20REPORT.pdf>.

²⁵ Ibid.

²⁶ Ibid.

²⁷ S. 6873-B, 233rd Leg. (N.Y. 2010 (Sponsor's Memo) Bill No. A10008. Accessed October 1, 2017. http://assembly.state.ny.us/leg/?default_fld=&leg_video=&bn=A10008&term=2009&Summary=Y&Memo=Y.

all full home rentals offered on Airbnb, Homeaway, or VRBO are illegal in the state of New York.

As the numbers in the 2014 report indicate, the 2010 change in law did not stop the popularity of the Airbnb platform in New York City (in fact, Airbnb listings had grown to over 40,000 by 2017 with about half in the full home category).²⁸ So in 2016, the state passed another law making it illegal to list a full home rental for a term of less than 30 days—now not only was renting a unit illegal, but advertising it was too and could come with a hefty fine.²⁹ The first fines were issued in February of 2017, so it may be some time before the effectiveness of the New York laws are known. The fine for each listing is \$1,000 and can increase to \$7,500 if the listings are not removed.³⁰

In May, some Albany lawmakers introduced a compromise bill that would allow for more short-term rentals in New York City. Hosts would have to register their units and would only be allowed one listing at a time, but in exchange, rentals under thirty days would be permitted.³¹ This bill has not advanced.

Cities like Washington, DC and New York City, NY struggle to keep up with demands for affordable housing stock. For the DC Government to add one unit to the market, it costs on average around \$100,000. Thus, even a small threat of hundreds or thousands of units is extremely problematic for the city. Even if Airbnb removed only 1,000 units from the market, a conservative estimate, it would cost DC \$100 million to

²⁸ Hinchliffe, Emma. “No vacancy: How Airbnb's New York City problem is just getting worse.” *Mashable*.

<http://mashable.com/2017/04/03/airbnb-nyc-no-vacancy/#cuF5pYMKPqp>.

²⁹ Ibid.

³⁰ Carman, Ashley. “New York City issues first illegal Airbnb fines.” *The Verge*. February 7, 2017. <https://www.theverge.com/2017/2/7/14532388/nyc-airbnb-first-illegal-renting-fines-issued>.

³¹ Solomont, E.B. “Dems spar over Airbnb bill that would allow more short-term rentals.” *The Real Deal*. May 5, 2017. <https://therealdeal.com/2017/05/05/dems-spar-over-airbnb-bill-that-would-allow-more-short-term-rentals/>.

replace them. Replacing housing stock takes years to plan and build, so Airbnb and other short-term rentals could be setting back DC's progress by decades.

History/Background

As mentioned above, affordable housing stock has been on the decline in DC since 2002. Several factors have contributed to this decline including gentrification, population growth, and growth in professional job sectors that attract college educated workers and pay well. From 2000 to 2015, DC's population increased by 100,000 and during that same time the median income has gone from \$40,000 to \$70,000.³² Unfortunately, at the same time median income has gone up, the number of affordable units have gone down and the number of families spending half their income on rent has gone up. Airbnb launched in DC in 2009 and with its rise in popularity came another threat to DC affordable housing stock, just as the current Mayor, Muriel Bowser, has made unprecedented investments to increase affordable housing and fight homelessness.

As DC housing prices began to rise with an influx of residents and economic activity, DC worked with federal government assistance to increase access to affordable housing. HUD launched the HOPE VI Program in 1992. This program, targeted at revitalization of the "nation's most severely distressed public housing," signaled a change in the federal government's approach to affordable housing policy.³³ As the Urban Institute explains:

HUD moved away from providing project-based assistance for poor families and started promoting mixed-income housing and the use of housing subsidies to

³² District of Columbia Office of Planning Population Trends. April 26, 2016. <https://dme.dc.gov/sites/default/files/dc/sites/dme/publication/attachments/Office%20of%20Planning%20Presentation%20for%20CSC%20TF%204%2026%2016.pdf>.

³³ Forrest, Katrina. "Affordable Housing in DC through the Years." August 28, 2014. <http://www.davidgrosso.org/grosso-analysis/2014/8/28/affordable-housing-in-dc-through-the-years>.

prevent the concentration of troubled, low-income households...The philosophy behind the shift was similar to that driving the new approach to welfare reform a few years later. Both reforms sought to promote self-sufficiency among recipients—one by emphasizing jobs over welfare checks; the other by encouraging families to move to better, safer neighborhoods that might offer greater economic opportunities.³⁴

From 2001 to 2014, DC received seven HOPE VI grants to revitalize public housing projects.³⁵ HOPE VI was one key tool for DC affordable housing policy, but the city also embarked on its own locally-directed programs, some based on the model of the HOPE VI grants.

One key source of funding for affordable housing in DC is the Housing Production Trust Fund (HPTF). Established by the DC City Council in 1988, the HPTF “is a permanent, revolving fund organized and administered to facilitate the creation of affordable housing and related activities for District residents, through the provision of financial assistance to eligible nonprofit and for-profit developers.”³⁶ However, the city did not provide any funding for the Trust Fund until 2001 and the contribution levels were unsteady. Figure 2 shows funding commitments to the Trust Fund between 2007 and 2016. Even with fluctuating resources, it is estimated that the HPTF has preserved or built almost 10,000 affordable housing units through 2016.³⁷ Since taking office in 2015, Mayor Muriel Bowser has committed \$100 million annually into the Trust Fund during

³⁴ Popkin, Susan. “THE HOPE VI PROGRAM—WHAT ABOUT THE RESIDENTS?” *Urban Institute*. December 2002. <https://www.urban.org/sites/default/files/publication/60276/310593-The-HOPE-VI-Program-What-about-the-Residents-.PDF>.

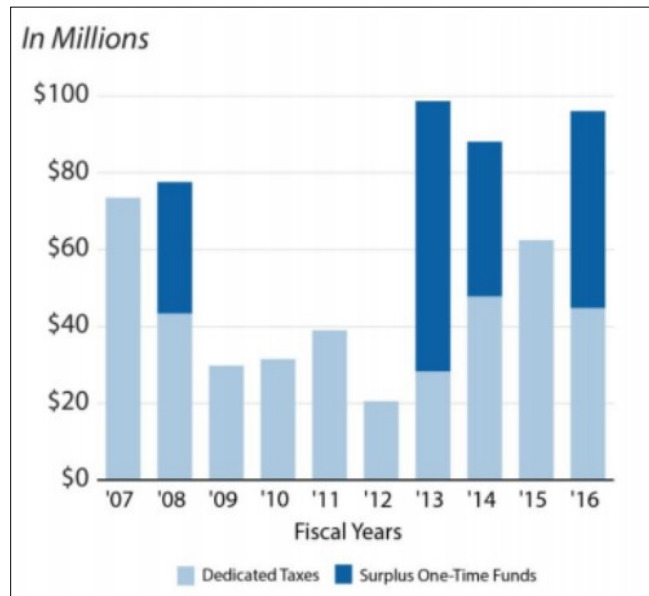
³⁵ Forrest, Katrina. “Affordable Housing in DC through the Years.” August 28, 2014. <http://www.davidgrosso.org/grosso-analysis/2014/8/28/affordable-housing-in-dc-through-the-years>.

³⁶ Department of Housing and Community Development. “Housing Production Trust Fund Advisory Board.” Accessed September 26, 2017. <https://dhcd.dc.gov/page/housing-production-trust-fund-advisory-board>.

³⁷ McCabe, Brian. “The Housing Production Trust Fund, explained.” *Greater Greater Washington*. November 8, 2016. <https://gqwash.org/view/43443/the-housing-production-trust-fund-explained>.

each year she is in office.³⁸ DCFPI estimates that the \$100 million funding level will allow for the creation or preservation of 1,000 affordable housing units each year.³⁹

Figure 6: Historical Funding for HPTF⁴⁰



When federal funding for HOPE VI began to decrease during the second Bush administration in the early 2000s, DC launched a new local program called the New Communities Initiative (NCI). Launched in 2005, it was designed as a “local response” to “federal budget cuts to housing revitalization programs and increasing crime and poverty in District neighborhoods.”⁴¹ NCI is centered around four guiding principles that include promoting mixed-income housing, replacing old affordable housing with new projects on an one-to-one basis, giving affordable housing residents the option of staying

³⁸ Executive Office of the Mayor. “Mayor Bowser Delivers on the Promise of the New Communities Initiative.” November 15, 2016. <https://mayor.dc.gov/release/mayor-bowser-delivers-promise-new-communities-initiative>.

³⁹ DC Fiscal Policy Institute. “The Housing Production Trust Fund.” April 11, 2016, p. 3. <https://www.dcfpi.org/wp-content/uploads/2016/04/16-04-HPTF-Brief.pdf>.

⁴⁰ Ibid, pg. 3.

⁴¹ New Communities Initiative. “Annual Program Report: 2014.” Accessed September 29, 2017. http://dcnewcommunities.org/wp-content/uploads/2014/06/FINAL-FOR-PRINT_NCI-Annual-Report_1140513-2.pdf.

in their current neighborhood, and building new projects before razing others.⁴² The Park Morton neighborhood in Ward 1 is one of the four targeted neighborhoods of NCI and to date, has invested \$15.7 million in development to complete 83 units.⁴³

Another key affordable housing program in DC, Inclusionary Zoning (IZ), passed the DC City Council in 2007 and became effective in 2009. The program requires new developments in the city to include a certain percentage of affordable units (eight to ten percent) in the build. Developers then are allowed to build larger projects that zoning laws would otherwise allow.⁴⁴ Just over one thousand IZ units had been built as of a July 2017 report on the program, with over seven thousand DC families registered for the lottery to receive an IZ unit.⁴⁵

The above are a few of the tools DC has used to develop affordable housing stock for its residents, but progress is slow-going and expensive. As noted earlier in this paper, there are 47,000 households on the affordable housing waitlist in DC. If, for example, IZ were the only tool used in DC, it would take 192 years to produce enough units to clear the wait list (based on the yearly production of 244 units in 2016). DC is working to make its IZ program more efficient, Mayor Bowser has committed historic levels of

⁴² New Communities Initiative. “Annual Program Report: 2014.” Accessed September 29, 2017. http://dcnewcommunities.org/wp-content/uploads/2014/06/FINAL-FOR-PRINT_NCI-Annual-Report_1140513-2.pdf.

⁴³ New Communities Initiative. “Park Morton Development Progress.” Accessed September 29, 2017. <http://dcnewcommunities.org/wp-content/uploads/2017/08/NCI-Development-Progress-Neighborhoods.pdf>.

⁴⁴ Giambrone, Andrew. “D.C. Affordable Housing Program Begins Seeing Results.” *Washington City Paper*. August 18, 2017. <http://www.washingtoncitypaper.com/news/housing-complex/blog/20972914/dc-affordable-housing-program-begins-seeing-results>.

⁴⁵ Department of Housing and Community Development. “Inclusionary Zoning Annual Report: Fiscal Year 2016.” July 2017. https://dhcd.dc.gov/sites/default/files/dc/sites/dhcd/publication/attachments/DHCD%20FY2016%20IZ%20Annual%20Report_0.pdf.

funding to the HPTF, but for projects that take so long to be realized, even a small threat to the number of affordable housing units can be detrimental to the city.

Airbnb launched in 2008 as a way for home owners to share their space with travelers. Hosts could list a private room in the home or the full home, set a per night rental price, and accept applications for renters through an online platform. Hosts added pictures of the home, descriptions about the neighborhood, and offered amenities for the leisure or business traveler. Airbnb describes itself: “Whether an apartment for a night, a castle for a week, or a villa for a month, Airbnb connects people to unique travel experiences, at any price point, in more than 65,000 cities and 191 countries.”⁴⁶ By 2009 hosts in DC could offer their rooms and homes to guests on the platform. Of the Airbnb listing options, a private room in a home or entire house, it is the full-home listings that are of concern to affordable housing advocates in DC. Platforms that offer only full-home listings such as VRBO and Homeaway are also available in DC.

According to Airbnb’s data, between October of 2015 and October of 2016, 236,000 guests stayed at one of 4,400 homes available on the platform and 66 percent of those listings were full home listings.⁴⁷ A quick scan of the VRBO site lists 1,485 full home rentals available in DC.⁴⁸ Homeaway had 1,548 DC vacation rentals available.⁴⁹ According to Airbnb, a typical host in Ward 1 earns an average of \$4,200 annually.

⁴⁶ Airbnb.com. “About Us.” Accessed October 1, 2017. <https://www.airbnb.com/about/about-us>.

⁴⁷ Airbnb. “Overview of the Airbnb Community in Washington, DC.” October 17, 2016. <https://www.airbnbaction.com/wp-content/uploads/2016/10/AirbnbWashingtonDCEconomicImpactReportOctober2016.pdf>.

⁴⁸ VRBO. “Washington, DC, USA Vacation Rentals.” Accessed September 29, 2017. <https://www.vrbo.com/vacation-rentals/usa/district-of-columbia-dc>.

⁴⁹ HomeAway. “Washington, DC, USA.” Accessed September 29, 2017. <https://www.homeaway.com/d/29030/washington>.

There were 14,200 guests in Ward 1 in the last year, a 260% increase over the previous year.⁵⁰

Under current DC law, the Rental Housing Act of 1985, it is illegal to convert rental housing into a hotel. The Rental Housing Act of 1985 addressed a wide range of housing issues in DC, recognizing that there was a “severe shortage” of affordable housing units available and that the “withdrawal of housing units from the housing market” was one cause of the shortage.⁵¹ The § 42–3506.01. Conversion section of the law states, “no person shall convert and the Mayor shall not permit the conversion of any housing accommodation or rental unit into a hotel, motel, inn, or other transient residential occupancy unit or accommodation.”⁵² To date, however, DC has not developed regulatory policy to address the growth of home sharing platforms like Airbnb.

Policy Proposal

The Short-term Rental Regulation and Affordable Housing Protection Act of 2017 intends to mitigate the threat posed to the affordable housing crisis by short term rental platforms. B22-0092, introduced by Councilmember Kenyan McDuffie of Ward 5, will create a new licensing program for short-term rentals, limit the number of days a short-term rental can be offered to no more than 15 days cumulatively, limit the number of short-term rentals a host can offer to one (thus making it illegal to be a commercial

⁵⁰ Airbnb. “Overview of the Airbnb Community in Washington, DC.” October 17, 2016. <https://www.airbnbaction.com/wp-content/uploads/2016/10/AirbnbWashingtonDCEconomicImpactReportOctober2016.pdf>.

⁵¹ “Rental Housing Act of 1985.” Accessed October 1, 2017. <https://beta.code.dccouncil.us/dc/council/laws/docs/6-10.pdf>.

⁵² Code of the District of Columbia. “Subchapter VI. Conversion or Demolition of Rental Housing for Hotels, Motels, or Inns.” Accessed October 1, 2017. <https://beta.code.dccouncil.us/dc/council/code/titles/42/chapters/35/subchapters/VI/>.

lister), and establish a fine structure for hosts and hosting platforms that violate the law (detailed below). This legislation primarily targets commercial users of short-term rental platforms, i.e. people who have more than one listing at a time, as they are most likely to be removing affordable housing stock from the market.

Both hosting platforms, like Airbnb and VRBO, and hosts are subject to fines for violating the new legal framework created by this legislation. Those desiring to host a short-term rental will be required to obtain a business license from the city and will only be allowed to obtain a license for their permanent dwelling. Current application fees for a transient housing business license are \$70 and the license is good for two years.⁵³ If you assume that all current non-commercial listings apply for a license at the rate of \$70, that would be 2,772 Airbnb units alone (63% of Airbnb units are non-commercial, as discussed earlier), generating \$194,040 for the city in licensing fees. Hosts will be required to include their business license number on a short-term rental listing, and websites like Airbnb and Homeaway are required to provide prominent display of this information on the listing. The bill limits short-term rentals to no longer than fifteen days cumulatively in the year, and compliance is expected on the part of the host and the website listing the rental. Penalties for hosts escalate much like the legislation that passed in New York. The first violation comes with a fine of \$1,000, the second with a fine of \$4,000 and the fine jumps to \$7,000 for the third and any additional violations.⁵⁴ The hosting platforms like Airbnb and VRBO will receive a \$1,000 fine per listing that is

⁵³ Department of Regulatory and Consumer Affairs. "Transient Housing License Information." Accessed October 14, 2017. <https://dcra.dc.gov/node/552042>.

⁵⁴ McDuffie, Kenyan. "Short-term Rental Regulation and Affordable Housing Protection Act of 2017." January 31, 2017. Accessed October 14, 2017. <http://lims.dccouncil.us/Download/37319/B22-0092-Introduction.pdf>.

listed for more than 15 cumulative days or that does not include a valid business license number.

The Department of Consumer and Regulatory Affairs (DCRA), through the creation of a new “Special Enforcement Department,” will be responsible for creating the licensing program, monitoring online platforms for violations, and fining violators.⁵⁵ The bill also requires the department to inspect short-term rentals for compliance with “zoning regulations, building codes, health codes, and housing codes.”⁵⁶ Additionally, the department will maintain records and statistics on short-term rentals that will be provided annually to the Mayor and City Council. The new rules go into effect 120 days after bill passage.

A fiscal note has not yet been produced for the bill, but costs are likely to come from the need to adequately staff the enforcement department. The bill requires the department to inspect units for health and safety violations, so DC will need to do an assessment of whether current staff has the capacity to conduct such inspections. Additionally, staff time will be required to review website listings to ensure that business licenses have been obtained by hosts and are listed on the websites. DC already administers several business licensing programs, so costs to add another one should not be high. While there should be some cost associated with adequately staffing the department, the bill will also have potential to generate revenue.

Revenue collected from fines will be split between the city’s General Fund and the Housing Production Trust Fund. Providing revenue to the HPTF is a second way the

⁵⁵ McDuffie, Kenyan. “Short-term Rental Regulation and Affordable Housing Protection Act of 2017.” January 31, 2017. Accessed October 14, 2017. <http://lims.dccouncil.us/Download/37319/B22-0092-Introduction.pdf>.

⁵⁶ Ibid.

bill will address affordable housing shortages, as the HPTF is a major tool the DC government uses to build affordable housing. However, revenue generated in DC will depend on staffing levels at the enforcement department and on how aggressively the city wants to track and fine violators. So far, New York has only issued \$17,000 in fines, under their law that prohibits apartment rentals for fewer than thirty days.⁵⁷ By way of comparison, Paris in 2017 has issued 615,000 euro in fines for violations of their short-term rental regulations, which do not allow a host to rent for more than 120 days.⁵⁸

Policy Analysis

The Short-term Rental Regulation and Affordable Housing Protection Act of 2017 seeks to mitigate the threat posed to the affordable housing crisis by short term rental platforms in one primary way and one secondary way: first, limiting short-term rentals to one per individual to eliminate commercial rentals that could be removing affordable housing stock and second, using fines to supplement the Housing Production Trust Fund. New York and San Francisco have already passed restrictions on short-term housing in an attempt to protect affordable housing. The experience of those two cities offers important insight as DC debates its bill.

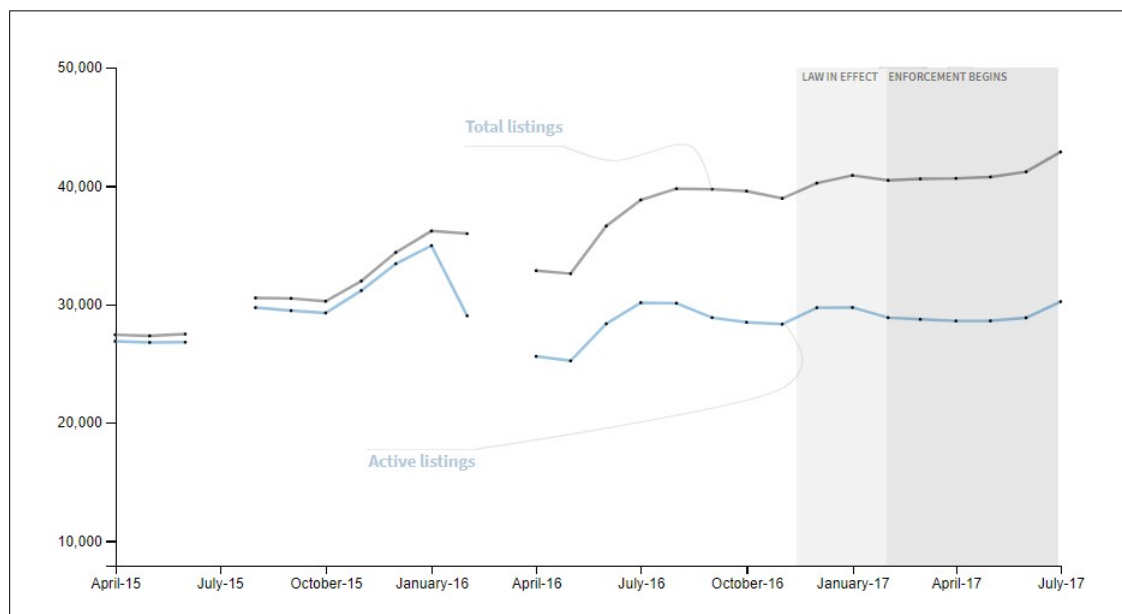
As discussed earlier, New York recently passed legislation to curb short-term rentals and protect affordable housing in the city. New York's law differs from DC in that no short-term rental of 30 days or less is allowed if the listing is for a full apartment.

⁵⁷ Carman, Ashley. "New York City issues first illegal Airbnb fines." *The Verge*. February 7, 2017. <https://www.theverge.com/2017/2/7/14532388/nyc-airbnb-first-illegal-renting-fines-issued>.

⁵⁸ France 24. "Paris cracks down on Airbnb renters with harsher fines." August 11, 2017. <http://www.france24.com/en/20170811-paris-cracks-down-airbnb-illegal-renters-fines-soar-france>.

Residents in New York may offer a room or couch in an apartment, but not the full apartment. Fines in New York City start at \$1,000, like the proposed bill in DC. As seen in the chart below from *Crain's New York Business*, the passage of the new law and implementation of fines has not considerably altered the number of listings in the New York City market. While active listings (defined as a rental with at least one day of availability) are down from a peak in January, total and active listings are trending in an upward direction even after the implementation of fines. There are still almost 30,000 active listings in New York City.

Figure 7: Listings Trend in New York City⁵⁹



The lack of movement of listings could be partially due to New York's very slow pace of implementing fines. Another analysis by *Crain's New York Business* in early May found that "In the three months since the state's anti-Airbnb bill went into effect, the city has issued fines on 139 listings. That leaves a mere 24,000 more to investigate....based on

⁵⁹ D'Amato, Peter. "New York is in a stalemate with Airbnb." *Crain's New York Business*. Accessed October 24, 2017. <http://www.crainsnewyork.com/reports/airbnb-data/#/>.

current rates, it would take the Mayor's Office of Special Enforcement 43 years to run down those potential violations.”⁶⁰ In order to increase the rate at which it can issue fines, New York City is planning to spend an additional \$1.6 million in Fiscal Year 2018 to bolster the Office of Special Enforcement.⁶¹ If fines are generated more regularly and receive public attention, it may start to deter hosts from listing, but there is no guarantee.

San Francisco’s law regulating Airbnb has existed for almost two years, predating New York’s by over a year. DC’s proposed law shares several features with the San Francisco law. Potential hosts are required to obtain a business license (that fee is \$250 every two years in San Francisco, DC has yet to determine its rate, but other business licenses in DC are only \$70). Like the DC proposal, San Francisco only allows hosts to rent one property and it must be their permanent residence. Under the San Francisco law, hosts may rent their home up to 90 days, whereas DC’s limit is 15 days. Hosts who violate the 90 day provision are fined \$484 a day.⁶² Since 2015, San Francisco has handed out over \$1 million in fines.

Compliance with licensing is key, as that is the way to monitor and restrict one individual from listing multiple properties on the short-term rental sites. Investigative journalists with an *NBC* affiliate found that “only 1,877 hosts are registered with the Office of Short-Term Rentals to legally rent out their homes. But...Airbnb alone had 8,800 hosts listing its site as of late 2016. That means more than 70 percent of hosts in

⁶⁰ Anuta, Joe. “City's Airbnb inspectors face daunting odds.” *Crain’s New York Business*. May 7, 2017. http://www.crainsnewyork.com/article/20170509/REAL_ESTATE/170509873.

⁶¹ Gannon, Devin. “De Blasio’s new budget boosts funding for anti-Airbnb enforcement.” *6sqft*. April 27, 2017. <https://www.6sqft.com/de-blasios-new-budget-boosts-funding-for-airbnb-enforcement/>.

⁶² Fishman, Stephen. “Overview of Airbnb Law in San Francisco.” *NOLO*. <https://www.nolo.com/legal-encyclopedia/overview-airbnb-law-san-francisco.html>.

San Francisco are seemingly breaking the law.”⁶³ In 2016, San Francisco updated the regulation to include a fine for hosting platforms that did not take down listings from hosts who failed to obtain a license from the city. Airbnb and VRBO filed suit and settled this summer, agreeing to “create systems that give San Francisco information about users when they register to list rentals on the online platforms. Based on that information, the city will be able to determine if users are registered with the city and abiding by regulations such as a rule that prohibits the use of affordable housing units for short-term rentals.”⁶⁴ It will take at least eight months to develop the new system, so it may be a year or longer before San Francisco can assess the success of the update to the law. For whatever reason, hosts are ignoring the licensing requirement in San Francisco. Perhaps it’s because enforcement is slow—even though total fines crossed \$1 million, San Francisco has only issued 483 violations in the two years since the law has been on the books—and hosts are willing to risk listing without a license.

Based on the experience in New York and San Francisco, it is unlikely that DC’s proposed law will be effective at limiting the number of Airbnb rentals threatening the affordable housing market. First, as New York learned, DC will need to invest considerable resources in the enforcement division to quickly and effectively investigate possible violations and issue fines. In the previous section, it was estimated that DC could make around \$194,000 from licensing fees, but that pales in comparison to the \$1.6 million New York City is investing to speed up investigation and enforcement. Miami

⁶³ Shaban, Bigad. “San Francisco Issues \$1.1 Million in Fines to Hosts Renting On Sites Like Airbnb.” *NBC Bay Area*. March 9, 2017. <https://www.nbcbayarea.com/news/local/San-Francisco-Issues-Million-in-Fines-to-Short-Term-Rental-Hosts-415832223.html>.

⁶⁴ Martin, Hugo. “Airbnb, HomeAway settle rental-registration lawsuit against San Francisco.” *LA Times*. May 1, 2017. <http://www.latimes.com/business/la-fi-airbnb-san-francisco-20170501-story.html>.

Beach, another jurisdiction that has implemented fines for Airbnb, has recently authorized two new staff positions in its compliance department, bringing the total number of staff dedicated to short-term rental regulation up to five.⁶⁵ The median salary in the DC Government is \$67,000.⁶⁶ At that rate, to meet Miami Beach's enforcement division size, DC would need to spend \$335,000 on salary alone.

Second, the licensing law in San Francisco has not been effective. Even after issuing over \$1 million in fines, most listings in San Francisco are still “illegal” and the overall number of listings have not decreased significantly. Third, even when fines reach outrageous amounts for a first violation to an individual and total violations issued, Airbnb listings have not declined substantially. Miami Beach, where fines begin at a staggering \$20,000, has also failed to curb the popularity of Airbnb. Over \$4 million in fines have been issued in Miami Beach (only \$65,000 have been paid; the remainder are in appeal), but “between 2015 and 2016 alone, the number of inbound guests to the county via Airbnb rose 30 percent.”⁶⁷ It begs the question of whether any fining level will push people into compliance with the law. Hosts may feel the regulators cannot handle the workload and thus no fine will ever come their way, may not be well informed about the laws, or may just feel that the additional income they earn from Airbnb is worth the risk.

Even if DC were to invest major financial resources into the enforcement division, the experience of New York, San Francisco, and Miami Beach suggest that

⁶⁵ Herrera, Chabeli. “How \$20,000 fines have made Miami Beach an Airbnb battleground.” *Miami Herald*. November 27, 2016. <http://www.miamiherald.com/news/business/biz-monday/article117332773.html>.

⁶⁶ “Average Salary for DC government Employees.” *Payscale*. Accessed October 24, 2017. https://www.payscale.com/research/US/Employer=DC_government/Salary.

⁶⁷ Herrera, Chabeli. “How \$20,000 fines have made Miami Beach an Airbnb battleground.” *Miami Herald*. November 27, 2016. <http://www.miamiherald.com/news/business/biz-monday/article117332773.html>.

licensing requirements and fines are not going to have a significant impact on decreasing Airbnb rentals. Licensing requirements may have other policy benefits, such as managing risk in shared condo and apartment buildings or allowing a city to tax Airbnb stays at the rates it taxes tourist hotels, but it is unlikely to reduce the impact Airbnb makes on the affordable housing stock. In cities across the country, hosts have decided that the benefit to be gained by making money from listing their property on Airbnb or VRBO outweighs the cost of potential fines from the city.

Additionally, it is unlikely that hosting sites like Airbnb and VRBO will willingly comply with the new rules, possibly resulting in a prolonged and expensive legal battle. Airbnb sued both New York and San Francisco to block implementation of the laws in those cities. San Francisco and Airbnb settled in May, San Francisco promising to offer electronic licensing for hosts and Airbnb agreeing to the regulation that hosts be licensed. Airbnb and New York have battled for years, but Airbnb dropped its case against New York's fines in return for the agreement that the Airbnb platform would not be subject to fines. Some also speculated that the company wants to go public and needed to be free of legal entanglements, hence its December agreement with New York and May agreement with San Francisco.⁶⁸ Although Airbnb may want to avoid a legal battle with DC in advance of its move to become a public company, DC should be prepared for a legal challenge to its legislation. Any legal challenge will add considerable costs to the implementation of the bill.

⁶⁸ Benner, Katie. "Airbnb Settles Lawsuit With Its Hometown, San Francisco." *The New York Times*. May 1, 2017. https://www.nytimes.com/2017/05/01/technology/airbnb-san-francisco-settle-registration-lawsuit.html?_r=0.

Accurate data is also a challenge for enforcement of a law like the one DC is considering. Airbnb San Francisco claims it has a strict one host-one listing policy and is actively de-listing hosts they believe are commercial hosts. In *Airbnb in San Francisco: By The Numbers*, the company states:

We are initially focused on the 288 hosts who are responsible for 671 listings in San Francisco...We want to take action if these are listings that could be impacting the availability of long term rental housing in the city...Most recently, in January we removed nearly 100 listings from our platform in San Francisco. In June, 2015 we removed 92 listings...We believe these listings were offered by hosts who shared multiple listings or represented other unwelcomed commercial activity.⁶⁹

However, CBRE Hotels' Americas research refutes those claims. In a 2017 report, CBRE Hotels' Americas released a report that found between 2015 and 2016 "in New York and San Francisco, units managed by multi-unit hosts only increased by about 35%, which is slightly higher than overall unit growth for these two markets, leaving the share of units managed by multi-unit hosts relatively unchanged."⁷⁰ Airbnb and the hotel industry have different goals for the success of policies implemented in New York and San Francisco, so arguably both are presenting biased data.

If a city can ensure cooperation from the hosting platforms, sites like Airbnb and VRBO may be better equipped to identify and remove these listings than a city enforcement department. Commercial listings are the target for preserving affordable housing and the hosting website likely has much quicker access to determining if a host has more than one listing, rather than a city enforcement staffer scrolling through the website. It may take the threat of legislation imposing hefty fines to gain cooperation

⁶⁹ "Airbnb in San Francisco: By The Numbers." *Airbnb*. April 2, 2016. <https://san-francisco.airnbccitizen.com/airbnb-in-san-francisco-by-the-numbers/>.

⁷⁰ CBRE Hotels' Americas Research. "Hosts with Multiple Units – A Key Driver of Airbnb Growth." March 2017. https://www.ahla.com/sites/default/files/CBRE_AirbnbStudy_2017_0.pdf.

from Airbnb and VRBO for these types of measures, but it's worth further consideration of how the hosting companies can be a true partner in preserving affordable housing for cities.

DC should also consider whether the 15 day cap for hosts could pose a burden to homeowners or renters who themselves are trying to make monthly mortgage or rent payments. If a DC resident travels frequently for work, for example, is it fair for the city to limit how that person earns income from their rental or property? Perhaps someone experiences unexpected job loss and couch surfs with friends to make money from putting their room on Airbnb. Housing prices in the city are expensive for all residents and some may be making ends meet through the extra income of sharing their home. The 15 day cap is much tighter than San Francisco's 90 day cap or Paris's 120 day cap. Also, that provision does not seem relevant to the policy goal of keeping affordable housing on the market. The city is stipulating that a resident must obtain a business license to offer a short-term rental and may do so only for their primary residence, so under those rules the property would not otherwise be available as full-time housing anyway. If it's a person private residence, why should the city limit the days a host can list unless there are policy goals beyond the protection of affordable housing the city is hoping to achieve?

As far as the secondary goal of generating revenue for the HPTF, it is unclear how much revenue DC could generate from the Short-term Rental Regulation and Affordable Housing Protection Act of 2017, but it is probably a breakeven proposition at best. First, the city will have to spend considerable resources to staff the division—like New York's \$1.6 million budget allocation or Miami Beach's commitment to greater staffing levels. Second, fines may never be paid to the city, or at least not without a lengthy appeals

process, as Miami Beach is experiencing. Third, the city may lose its ability to fine hosting platforms through legal settlements like the one made in New York City. Finally, the revenue from fines was going to be split between the general fund and the HPTF, making it even less likely the bill will be significant source of revenue for the HPTF.

DC has much to learn from the experience of other cities attempting to protect affordable housing from Airbnb and similar short-term rental sites. First, the bill will be expensive to implement effectively. Second, whether the bill will be effective even with a large resource commitment is highly questionable. The 2017 CBRE Hotels' Americas study found that in all thirteen jurisdictions it studied, multi-unit listings had increased. It noted that "percentage of revenue" growth for multi-unit hosts was slower in New York and San Francisco, but is that enough to consider their policies a success?⁷¹ Third, without cooperation from the listing websites, it is unlikely the bill will accomplish its policy goals. DC will have to decide if it wants to invest as other cities have for lukewarm results at best.

Another potential negative consequence of the Short-term Rental Regulation and Affordable Housing Protection Act of 2017 is its impact on tourism. Since Airbnb's arrival in 2009, DC has gained almost 6 million visitors annually, moving from 16.3 million visitors in 2009 to a record 22 million in 2016.⁷² During the same time, occupancy rates at DC's hotels have been on the rise from 73% (2009) to 78% (2016), and daily rates for hotels have also increased steadily from a \$199 nightly average in

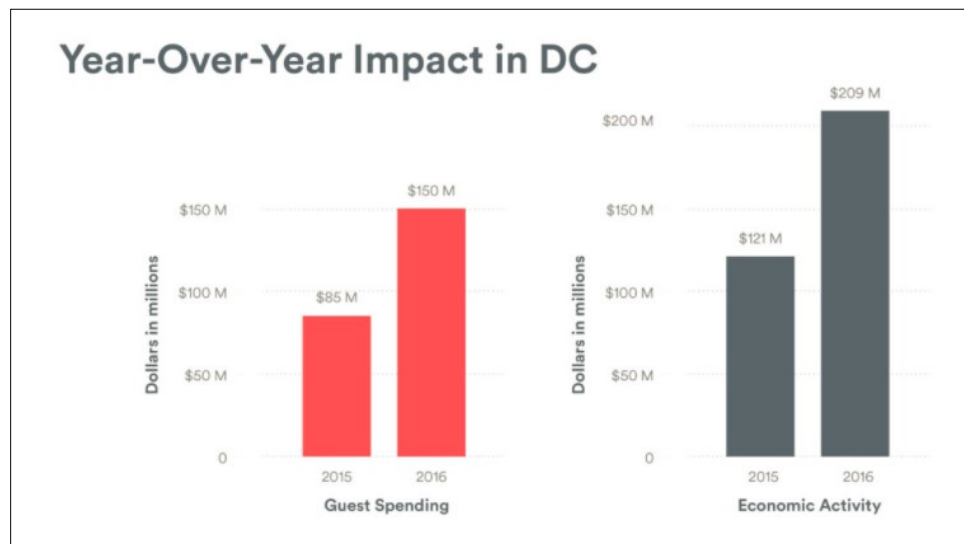
⁷¹ CBRE Hotels' Americas Research. "Hosts with Multiple Units – A Key Driver of Airbnb Growth." March 2017. https://www.ahla.com/sites/default/files/CBRE_AirbnbStudy_2017_0.pdf.

⁷² Destination DC. "2016 Visitor Statistics Washington, DC." https://washington-org.s3.amazonaws.com/s3fs-public/2016_visitor_statistics_september_2017.pdf.

2009 to a \$224 nightly average in 2016.⁷³ This suggests that sites like Airbnb and VRBO are contributing to the growth in tourism in DC without taking away occupancy or revenue from the area’s hotels. Additionally, short-term rentals are required to pay DC hotel tax and according to Airbnb, “since February 2015, Airbnb’s host and guest community have contributed over \$12 million in hotel and occupancy taxes to the District of Columbia.”⁷⁴

If other short-term rental sites are averaging near Airbnb’s usage, DC could be losing out on tens of millions of dollars in direct tax revenue from hotel and occupancy taxes and indirect sales tax revenue from tourists using DC businesses and services. Figure 4 shows Airbnb’s published estimates of its increasing economic impact in DC over just one year. Guest spending and overall economic activity nearly doubled from 2015 to 2016.

Figure 8: Airbnb Economic Impact in DC⁷⁵



⁷³ Destination DC. “2016 Visitor Statistics Washington, DC.” https://washington-org.s3.amazonaws.com/s3fs-public/2016_visitor_statistics_september_2017.pdf.

⁷⁴ Airbnb. “Airbnb in DC: 2016 Year in Review.” February 7, 2017. <https://washington-dc.airbnbucitizen.com/airbnb-dc-2016-year-review/>.

⁷⁵ Ibid.

Since these guests are not siphoning off business from hotels, DC must ask where they will go if Airbnb and other short-term rental sites are restricted. It is possible that additional hosts could join the market, staying in line with DC's proposed restrictions, to meet demand, but it's also possible that guests would opt to stay in Maryland or Virginia if Airbnb is easier to access in those areas. While not all revenue would be lost to Maryland and Virginia if guests are still spending time in DC, a sizable portion of the hotel and occupancy tax could be lost to neighboring jurisdictions. If that revenue is going into the general fund that supports DC's existing affordable housing programs, the Short-term Rental Regulation and Affordable Housing Protection Act of 2017 could harm rather than help DC's efforts to provide access to affordable housing.

Political Analysis

Several key constituencies are engaged in the debate of Short-term Rental Regulation and Affordable Housing Protection Act of 2017. Against the bill in its current form are Airbnb, VRBO, Flipkey, and other home sharing companies. They are open to limited regulation and particularly oppose the 15 day annual limit on hosts. Small business owners and individuals who benefit economically from tourists using Airbnb also oppose the bill. The traditional hotel industry supports the bill. DC already collects hotel tax from Airbnb, but Airbnb is able to self-report how much tax it owes. While this bill does not address taxation, the hotel industry feels greater regulation and restriction of short-term rentals will take away some of Airbnb's competitive advantage. However, as noted above, occupancy rates and average nightly rates at hotels have been on the rise during the same time period Airbnb has been growing in DC. Thus, it's difficult to argue

that hotels are losing their competitive edge to Airbnb. Advocacy groups that support increase affordable housing also support the bill. Both an advocacy coalition supporting the bill and a coalition against the bill have invested in advertising campaigns to support their position.

Ward 1 constituents have landed on both sides of the issue. Some are making a considerable amount of additional income from renting their property while others may find the increased short-term rental usage in their neighborhoods to be a nuisance. As you have stated publicly, the tension will be finding “balance that ensures law-abiding homeowners have the ability to participate in the sharing economy while also cracking down on illegal hotel operators.”⁷⁶

Ward 1 is one of the most popular wards for Airbnb listings and has seen the positive and negative side to Airbnb. According to Airbnb’s study of its impact on the DC community, “the average Airbnb guest spends \$136 per day in Washington, DC” and “36% of this is spent in the neighborhoods in which they stay.”⁷⁷ According to that same report, hosts in Ward 1 earned an average of \$4,200 annually and listed their home for an average of 44 days, generating a total of \$7.7 million in income for local households.⁷⁸ However, the total economic impact to the neighborhood almost quadruples the revenue generated by hosts. Airbnb estimates that guests spent over \$28 million at small

⁷⁶ Giamborne, Andrew. “‘Sting Operation’ Reveals Questionable Airbnb Use at Building in Columbia Heights.” *Washington City Paper*. December 15, 2016.
<https://www.washingtoncitypaper.com/news/housing-complex/blog/20846838/sting-operation-reveals-questionable-airbnb-use-at-building-in-columbia-heights>.

⁷⁷ Airbnb. “Overview of the Airbnb Community in Washington, DC.” October 17, 2016.
<https://www.airbnbaction.com/wp-content/uploads/2016/10/AirbnbWashingtonDCEconomicImpactReportOctober2016.pdf>.

⁷⁸ Ibid.

businesses in Ward 1 in 2016.⁷⁹ Only Wards 2 and 6 saw a greater economic impact than Ward 1. Under the proposed law, many hosts in Ward 1 would be restricted to listing their home for only 15 days out of the year, as opposed to the average 44 days that they are listing currently. That would drop average annual earnings for those hosts by over half, possibly provoking a backlash from individuals using short-term rental platforms to help pay the rent. It is also important to keep in mind that these statistics come only from one platform. It is likely that VRBO, Homeaway, and others are adding additional economic capacity to Ward 1.

The economic activity generated from short-term rental guests, both for the host and the local area businesses, could be severely lessened under the strict regulations of the Short-term Rental Regulation and Affordable Housing Protection Act. It is unlikely that activity would move to traditional hotels, as many areas in Ward 1 do not have traditional hotels. Columbia Heights, for example, is an extremely popular short-term rental neighborhood, and there are no traditional hotels in that neighborhood. Adams Morgan does have a couple of hotels, but according to the 2016/2017 Washington DC Economic Partnership report, of 30 major hospitality projects recently completed, in the pipeline, or anticipated in the near future, only one is located in Ward 1.⁸⁰

While many Ward 1 residents and small business owners are benefiting financially from Airbnb, Columbia Heights in Ward 1 was home to one of the most egregious violations of current DC housing law. In 2015, the Latino Economic Development Center (LEDC) discovered a 21-unit rent-controlled building was being

⁷⁹ Airbnb. "Airbnb in DC: 2016 Year in Review." February 7, 2017. <https://washington-dc.airbnbucitizen.com/airbnb-dc-2016-year-review/>.

⁸⁰ Washington, DC Development Report: 2016/2017 Edition. http://wdcep.com/wp-content/uploads/2016/11/DCDR_2016_100dpi.pdf.

used as an illegal hotel, listing its rooms on websites like Airbnb and Homeaway rather than renting the units to possible tenants.⁸¹ Further investigation revealed that the building's owner was doing the same with three other properties. You, along with the LEDC, conducted a sting operation to expose the practices of this owner to the general public. In this way, you have previously demonstrated to the community and your constituents that you will not tolerate major violations of DC's laws when it comes to short-term rentals.

Polling on Airbnb and short-term rentals is a mixed bag and no polling has yet been done on the specifics of the DC law. In a 2016 national survey, Airbnb found that 67% of all Americans and 75% of millennials have a favorable impression of Airbnb and other giants in the sharing economy, Uber, for example.⁸² On Airbnb specifically, 73% of Americans and 81% of millennials want Airbnb to be legal in their community.⁸³ Airbnb Watch, an association organized against Airbnb that include the American Hotel and Lodging Association, conducted polling that shows 91% of respondents support reasonable regulations on Airbnb, such as adhering to zoning, health, and safety laws.⁸⁴ That poll did not ask questions about regulations like would be included in the Short-term Rental Regulation and Affordable Housing Protection Act of 2017. However, a poll conducted in Florida did ask specific policy questions that might have some relevance to the DC law. As discussed earlier, Miami Beach has some of the highest fines against

⁸¹ D.C. Working Families. "Selling the District Short: Short-term rentals: a new challenge to housing affordability in the District of Columbia Airbnb's Impact in Washington D.C." March 2017, pg. 23. http://dcsharebetter.org/wp-content/uploads/2017/03/D.C.-Housing-Report_Web.pdf.

⁸² Kokalitcheva, Kia. "Airbnb Wants Politicians to Know That Millennials Love the 'Sharing Economy.'" *Fortune*. July 26, 2016. <http://fortune.com/2016/07/26/airbnb-dnc-millennials-poll/>.

⁸³ DBR Airbnb Survey Summary. July 2016. <https://1zxiw0vqx0oryvpz3ikczauf-wpengine.netdna-ssl.com/wp-content/uploads/2016/07/DBR-Airbnb-National-Survey-Summary.pdf>.

⁸⁴ Airbnb Watch. "91% AGREE IN NEW POLL: REGULATE AIRBNB." June 21, 2017. <https://airbnbwatch.org/91-agree-in-new-poll-regulate-airbnb/>.

Airbnb in the country. However, Florida voters, including those in South Florida, support Airbnb according to a 2017 poll. That poll found that 61% of Florida voters (65% in Southeast Florida) said the government should not “have the authority to ban homeowners from renting out their private property for less than 30 days” and 93% of those polled (94% in Southeast Florida) felt out of town guests should have access to non-hotel options like Airbnb.⁸⁵

Ward 1 has four Advisory Neighborhood Commissions (ANC). These neighborhood commissions serve as a voice for local people in DC government. Several have already weighed in with positions on the Short-term Rental Regulation and Affordable Housing Protection Act. ANC 1D, which represents the Mount Pleasant neighborhood in Ward 1, opposes the bill and in testimony stated:

We are skeptical that the proposed regulation would have much positive impact on the affordable housing crisis in Mount Pleasant. We feel that the limit of 15 days per year on vacation rentals is extremely limiting to homeowners, many of whom work for federal agencies, international organizations, and nonprofits and travel for long periods of time. They can earn a bit from renting their homes while traveling. We do not feel that homeowners renting rooms, their own homes, or English basements should be subjected to the proposed licensing requirements nor the severe fines—our homeowners don't need more DCRA in their lives.⁸⁶

The remaining three ANCs in Ward 1 have not weighed in with an official position, but ANC2B covering Dupont Circle also expressed opposition to the bill. ANC1D submitting testimony against the bill suggests that a sufficient number of engaged residents in the neighborhood are also opposed. Those engaged at this level of local politics are also likely to be voters.

⁸⁵ Ianelli, Jerry. “Unlike Miami Beach Mayor Levine, 94 Percent of South Floridians Want Legal Airbnb.” *Miami New Times*. March 7, 2017. <http://www.miaminewtimes.com/news/unlike-miami-beach-mayor-levine-94-percent-of-south-floridians-want-legal-airbnb-9190438>

⁸⁶ ANC1D. “ANC TESTIMONY CONCERNING SHORT-TERM RENTAL LEGISLATION.” April 27, 2017. <http://anc1d.org/announcements/>.

You are up for re-election in the Democratic Primary in June of 2018 and so far, you have three challengers for your re-election in 2018. However, you have raised nearly \$190,000 by the end of July, with the nearest challenger at only \$15,000.⁸⁷ Additionally, strict campaign contribution limits of \$500 in DC mean that your position on this bill would not significantly impact your fundraising from organizations. The majority of your contributions, \$132,000, have come from individual donors, so alienating voters who are either for or against the Short-term Rental Regulation and Affordable Housing Protection Act of 2017 is a bigger concern than how corporations will react.

The latest challenger to enter the race, Sheika Reid, has named affordable housing as one of her top priorities.⁸⁸ Although Ward 1 residents do not face the greatest housing affordability challenges of all wards, 18 percent of units in Ward 1 are considered “severely rent burdened” by the Urban Institute, so any leakage of available housing stock to Airbnb and other short term rental sites is damaging to the welfare of the residents of the Ward.⁸⁹ Whether this becomes a campaign issue depends on two major factors: one, is the public convinced that this bill will address affordable housing shortages and two, do your opponents take positions different than you on the bill. Further, will constituents support attempts to address affordable housing for those most in need at the expense of additional income for residents who may find their own housing

⁸⁷ Jamison, Peter. “Nadeau off to strong start in Ward 1 reelection fundraising.” *Washington Post*. August 1, 2017. https://www.washingtonpost.com/local/dc-politics/nadeau-off-to-strong-start-in-ward-1-reelection-fundraising/2017/08/01/701a493a-76c9-11e7-8f39-eeb7d3a2d304_story.html?utm_term=.8a7d30403a47.

⁸⁸ Chason, Rachel. “Sheika Reid joins race for Ward 1 D.C. Council seat.” *Washington Post*. September 20, 2017. https://www.washingtonpost.com/local/dc-politics/sheika-reid-joins-race-for-ward-1-dc-council-seat/2017/09/18/f73cc6b0-9a49-11e7-b569-3360011663b4_story.html?utm_term=.150177902e04.

⁸⁹ Tatian, Peter, et. al. “Affordable Housing Needs Assessment for the District of Columbia: Phase II.” Urban Institute, May 2015, pg. 24. <https://www.urban.org/sites/default/files/alfresco/publication-pdfs/2000214-Affordable-Housing-Needs-Assessment-for-the-District-of-Columbia.pdf>.

costs to be too high (even if they are not at the statistical level of being heavily rent burdened).

The biggest political challenge for you in assessing this bill will be how Ward 1 voters react to your decision. Will there be more voters who support attempts to protect affordable housing stock (if they actually believe the bill accomplish its goal) or more voters who wish to be able to earn additional income through Airbnb. The most vocal proponents in Mount Pleasant are the latter. Although no polling has been conducted in DC, polls on similar policy questions in Florida suggest voters are highly supportive of legal access to Airbnb with few restrictions. While Airbnb and the hotel industry will spend considerable resources on opposite sides of this bill, that is of less significance for you than how your constituents will respond in an election year.

Recommendation

After a careful review of the Short-term Rental Regulation and Affordable Housing Protection Act of 2017, I recommend that you vote against the proposal. First, the proposal is unlikely to achieve its stated goal. Second, the proposal is likely to do more harm to residents looking to earn extra money than it is to curb major abuses of the short-term rental system. Third, based on available public polling and public comment, residents of your district support Airbnb and the ability to use platforms like it. Fourth, DC risks losing significant revenue from the hotel and occupancy taxes it collects from short-term rentals and taxes on the goods and services visitors use when they are in town using Airbnb.

Although DC's bill was modeled on bills that have already been enacted in other major U.S. cities, the experience of those cities suggests it is unlikely that the Short-term Rental Regulation and Affordable Housing Protection Act of 2017 will achieve its goal of mitigating the impact short-term rentals have on affordable housing supply. As both New York and San Francisco found, the costs to implement their bills are extraordinarily high, and even with those levels of spending the bills were not impactful. DC's fines for violation are low and it is unlikely the fines will deter hosts from using the site for more days than the bill allows. As Miami Beach learned, even extremely steep fines could not curb the popularity and use of the short-term rental services. There is no reason to believe DC's experience will be different than that of New York, San Francisco, or Miami Beach.

Additionally, DC's extremely restrictive provision that hosts can only list their property for a total of 15 days annually is likely to harm residents who need extra income rather than restrict commercial users of short-term rental sites. Listings that are most likely to be taking affordable housing stock off the market are commercial listings. Thus, a licensing requirement and only allowing individuals to obtain one license for short-term listings in theory would be adequate to stop commercial listings (though as noted above, this has not been successful in New York or San Francisco). Limiting individuals to 15 days of listing seems somewhat arbitrary. If a primary residence is all they can list, even listing up to half the year would not remove what should otherwise be on the apartment rental market. As your constituents in ANC1D noted in their opposition to this bill, many DC residents travel frequently for work. Why should they be limited in the number of days they can rent their property when they are out of town? There are certainly societal

welfare reasons for limitation, such as safety and not having a revolving door of strangers in a condominium or apartment building, but those reasons have nothing to do with the goal of this bill, which is protect affordable housing stock.

Although no specific polling has been done in DC, polling done elsewhere, and the rising usage of short-term rental sites, suggest that the public wants short-term rentals to be legal and available. Airbnb type sites are skyrocketing in popularity both among the number of people listing their homes on the site and the number of tourists using Airbnb. Ward 1 brings in a considerable amount of revenue both for hosts and local businesses from Airbnb's presence in the ward. Voters in Ward 1 who list their homes on short-term rental sites or small businesses in Ward 1 who benefit from the visitors would likely be unhappy with the restrictions in this bill. I do not think that political risk is worth taking for a bill that is unlikely to make its desired impact on affordable housing. The political risk might be worth taking if affordable housing stock would truly be preserved, but I do not think that is the case.

Finally, DC is collecting a considerable amount of revenue from visitors that are using Airbnb and comparable sites for their stays in DC. DC collects hotel and occupancy taxes for stays on short-term rental sites, generating one major source of revenue. If guests are more limited, they might choose to not visit DC or stay in jurisdictions nearby in Maryland or Virginia. Since hotel occupancy rates have not decreased with the rise of Airbnb, it is likely that many of the Airbnb users are new or additional tourists to DC that might not be here otherwise. Beyond hotel and occupancy taxes, these visitors are spending considerable amounts in the local communities where they stay. That directly benefits DC's businesses and DC also benefits from taxes

collected from goods and services people use while in town. The revenue loss from restricting usage of Airbnb could be detrimental to the city's ability to allocate resources to affordable housing programs. That could be costlier than the supposed number of affordable housing units that would go back on the market under the proposed restrictions.

While I believe this bill was developed with the right intentions, I do not think it will be successful at achieving its policy goal. Therefore, I recommend you do not support the Short-term Rental Regulation and Affordable Housing Protection Act of 2017 in its current form.

Curriculum Vitae:

Bailey Childers is the Executive Director of the National Public Pension Coalition, where she leads national and state efforts to advance retirement security for working Americans. A thought leader on pensions and retirement policy, she has been published regularly in *The Hill*, *Huffington Post*, *Medium*, and outlets like *CNBC* and *CNN Money*. Before joining NPPC, Childers managed state legislative efforts to support progressive tax and budget policies at the Center on Budget and Policy Priorities. Additionally, Childers managed national and state campaigns for AFSCME for four years, including a victorious campaign to protect Ohio's public workers from a Walker-style attack on collective bargaining rights. In 2010, Childers was the AFL-CIO's Labor 2010 State Director in Ohio, where she oversaw a multi-million dollar mail, phone, door, and worksite program. A seasoned political operative, Childers spent much of her career running high-capacity field and GOTV efforts for Hillary Clinton in 2008 and 2016, the DNC in 2006, and John Kerry in 2004. Through her roles at AFSCME and on various Democratic political campaigns, Childers has hired and mentored dozens of new leaders, elevating the voices and work of women and people of color in the labor movement. Childers, who is a native of Longview, Texas, graduated magna cum laude from Wellesley College.